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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Terry Lee Garrison,

10 Plaintiff,

11 v.

12 NaphCare Incorporated, et al.,

13 Defendants.
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NO. CV-24-01407-PHX-SMM (MTM)

ORDER

16 Before the Court is Magistrate Judge Michael T. Morrissey's Report and
17 Recommendation. (Doc. 70). The Magistrate Judge recommends that the Court dismiss
18 Plaintiff's Amended Complaint without prejudice as to Defendants Grace Adams, Siji
19 Thomas, and Rodney Stewart pursuant to Rule 41(b) of the Federal Rules of Civil
20 Procedure for failure to prosecute. (Id.) For the following reasons, the Court adopts the
21 Magistrate Judge's Report and Recommendation.

22 **I. BACKGROUND**

23 On August 21, 2024, Plaintiff Terry Lee Garrison filed a pro se civil rights
24 Complaint pursuant to 42 U.S.C. § 1983 (Doc. 9). Plaintiff filed an Amended Complaint
25 against Defendants NaphCare Incorporated, Grace Adams, Siji Thomas, Michael
26 Braithwaite, Unknown Humphries, Bellene Racowsky, Unknown Forehand, Rodney
27 Stewart filed by Terry Lee Garrison on July 22, 2025. (Doc. 63). On July 23, 2025, the
28 Court issued an Order dismissing Count IV of the Amended Complaint as well as

Defendants Braithwaite, Racowsky, Humphries, and Forehand from the entirety of this action. (Doc. 64). The Court then directed the Clerk of Court to send service packets to Plaintiff to send to Defendants Adama, Thomas, and Stewart. (Id.). After Plaintiff did not return the service packets, on September 23, 2025, the Court ordered that Plaintiff must either return to the Clerk completed service packets for Defendants or show cause why this matter should not be dismissed for failure to comply with the Court’s Order. (Doc. 69).

II. DISCUSSION

On October 20, 2024, Magistrate Judge Michael T. Morrissey issued a Report and Recommendation (“R&R”) (Doc. 70), recommending that the Court dismiss Plaintiff’s Amended Complaint without prejudice as to Defendants Adams, Thomas, and Stewart pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute. The Magistrate Judge advised Plaintiff that he had fourteen (14) days to file objections to the R&R and that failure to file timely objections could be considered a waiver of the right to obtain review of the R&R. (Id.); see 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6, 72; United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003).

No timely objection has been filed, which relieves the Court of its obligation to review the R&R. See id.; Thomas v. Arn, 474 U.S. 140, 149 (1985) (“[Section 636(b)(1)] does not. . . require any review at all. . . of any issue that is not the subject of an objection.”); Fed. R. Civ. P. 72(b)(3) (“The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to.”).

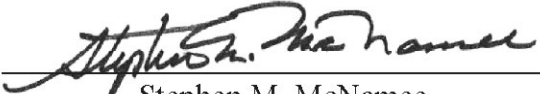
The Court has nonetheless reviewed the R&R and agrees that Plaintiff’s failure return the service packets or otherwise respond to the Court’s Order warrants dismissal of this action as to Defendants Adams, Thomas, and Stewart without prejudice. See 28 U.S.C. § 636(b)(1) (stating that the district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate”); Fed. R. Civ. P. 72(b)(3) (“The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.”).

1 Accordingly,

2 **IT IS ORDERED adopting** the Report and Recommendation of the Magistrate
3 Judge. (Doc. 70.)

4 **IT IS FURTHER ORDERED dismissing without prejudice** Plaintiff's
5 Amended Complaint (Doc. 63) and this action as to Defendants Grace Adama, Siji
6 Thomas, and Rodney Stewart pursuant to Rule 41(b) of the Federal Rules of Civil
7 Procedure.

8 Dated this 5th day of November, 2025.

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11 Stephen M. McNamee
12 Senior United States District Judge
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